

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

(Redwood City, California)

CARRIAGE ENTERPRISES, Ltd. d/b/a  
LAND ROVER REDWOOD CITY 1/

Employer

and

MACHINISTS AUTOMOTIVE TRADES DISTRICT 190,  
LOCAL 1414 2/

Petitioner

**20-RC-17525****DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 3/
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer. 4/
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act: 5/

All full-time and regular part-time journeyman service technicians and service technician trainees employed by the Employer at its Redwood City, California facility; excluding service advisers, booker/warranty clerks, detailer/porter/lot attendants, parts counterspersons, guards and supervisors as defined in the Act.

**DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll

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period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **MACHINISTS AUTOMOTIVE TRADES DISTRICT 190, LOCAL 1414**.

### LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. **Excelsior Underwear, Inc.**, 156 NLRB 1236 (1966); **NLRB v. Wyman-Gordan Company**, 394 U.S. 759 (1969). Accordingly, it is hereby directed that with 7 days of the date of this Decision 3 copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. **North Macon Health Care Facility**, 315 NLRB No. 50 (1994). In order to be timely filed, such list must be received in the Regional Office, 901 Market Street, Suite 400, San Francisco, California 94103, on or before June 22, 1999. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

### RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, 1099-14th Street, NW, Washington, DC 20570-0001**. This request must be received by the Board in Washington by July 6, 1999.

Dated June 22, 1999

at San Francisco, California

/s/ Joseph P. Norelli  
Acting Regional Director, Region 20

- 1/ The Employer's name appears as amended at the hearing
- 2 The Petitioner's name appears as amended at the hearing.
- 3/ The parties stipulated, and I find, that the Employer is a California Corporation with place of business located at 440 Convention Way, Redwood City, California, where it is engaged in the retail sale and service of automobiles. During the 12-month period ending May 31, 1999 the Employer derived gross revenues in excess of \$500,000 and purchased and received goods valued in excess of \$5,000 which originated from points located outside the State of California. Based on the parties' stipulation to such facts, it is concluded that the Employer is engaged in commerce and that it will effectuate the purposes and policies of the Act to assert jurisdiction herein.
- 3/ The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of the Act.
- 4/ The parties stipulated that there is no collective-bargaining agreement covering the employees in the unit sought herein, and that there is no contract bar to this proceeding.
- 5/ The Petitioner seeks to represent a craft unit comprised of all full-time and regular part-time journeyman and trainee service technicians employed by the Employer at its Redwood City, California facility. Contrary to the Petitioner, the Employer contends that the trainee service technician is not a craft employee and that all employees employed in the Employer's parts and service department (service advisers, the booker/warranty clerk, the detailer/porter/lot attendant, and the parts counterperson) should be included in the unit.

The record reflects that the Employer operates an automobile dealership that sells and services Land Rover automobiles. The Employer's parts and service department is headed by Parts and Service Manager David Clifford. This department consists of six journeyman service technicians (Paul Alaniz, George Ferreira, Bill Hight, Ron Holt, Mark Mitchell and John Rayo); one service technician/shop foreman (Mark Gospodentich); one service technician trainee (Statish Machhi); two service advisers (Clifford Bates and Christina Cabading); one booker/warranty clerk (Aaswindra Singh); one detailer/porter/lot person (Armando Rosales); Parts Manager Jim Brewster; and one parts counterperson (Adam Gonzales). The parties stipulated that service technician trainee Statish Machhi; journeyman service technicians Paul Alaniz, George Ferreira, Bill Hight, Ron Holt, Mark Mitchell and John Rayo; and service technician/shop foreman Mark Gospodentich should be included in the unit. The parties also stipulated, and I find, that Parts and Service Manager Clifford and Parts Manager Brewster are supervisors within the meaning of the Act.

The record reflects that the Employer's journeyman and trainee service technicians work under the supervision of Parts and Service Manager Clifford. The journeyman service technicians are responsible for performing mechanical repair work on Land Rover vehicles brought to the Employer's facility for repair. They diagnose engine and mechanical problems and perform general engine and mechanical repair work such as, transmission work; repair differentials and rear-ends; make electrical repairs; repair oil leaks and brakes, etc. Although the Employer does not require its journeyman service technicians to be certified in any specific automotive repair area in order to qualify for employment, Parts and Service Manager Clifford testified that they are required to have "heavy work experience" in diagnostic, transmission and engine work in order to be considered for employment.

The record reflects that most of the Employer's journeyman service technicians possess certifications in various auto repair specialties from the Automotive Society of Engineers (ASE), a national testing program which rates technicians in various automotive repair categories. Additionally, the record reflects that the manufacturer of Land Rover automobiles conducts a number of 2, 3 and 4-day training courses for service technicians. These courses cover such topics as heating and air conditioning, axles and swivel seals, driveability, engines, transmissions and fuel systems. Only service technicians and service technician trainees attend these courses. The record reflects that a number of the Employer's journeyman service technicians have attended such courses. The record also discloses that the Employer's service technicians are required to supply their own tools and that the tools of the various journeyman service technicians range in value from about \$15,000 to \$50,000. The Employer's journeyman service technicians are paid an hourly wage of about \$22.50 per hour. The shop foreman/service technician receives about \$24.50 an hour. Each of the journeyman service technicians is also eligible to receive a bonus if he exceeds 100% efficiency. The journeyman service technicians and the service technician trainee begin their shifts at 7:30 a.m. or 8:00 a.m.

The record reflects that service technician trainee Statish Machhi was hired to work for the Employer as a detailer/lot person. He was reclassified to work as a service technician trainee shortly before February 1999. He earns about \$11.50 an hour. Like the journeyman service technicians, Machhi receives his work assignments from the service advisers. Machhi's duties consist of doing oil changes, oil pan reseals, valve cover gaskets, lube and service work and light duty mechanical work that is not diagnostic in nature. He also puts brake pads on vehicles and does axle reseals. While the Employer tries to use Machhi in the shop as much as possible, on occasion he is used to help out in any way the Employer needs him such as bringing vehicles to the service area, washing vehicles and running to get parts. As of the date of the hearing, Machhi had not received any formal training in automotive repair and did not possess any ASE certification of any sort.

The record reflects that Machhi is not assigned to work with a particular journeyman service technician as a helper. Rather, he works strictly on his own. However, one of the journeyman service technicians oversees Machhi's work on difficult jobs. In this regard, the record reflects that Machhi's work station is located near those of journeyman service technicians John Rayo and Mark Mitchell and technician/shop foreman Mark Gospodnetich. Like the journeyman service technicians, service technician trainee Machhi supplies his own tools. However, since the work he performs is classified as "basic work," Machhi's tools are basic tools and are not as costly as those of the journeyman service technicians. Thus, the record reflects that Machhi's tools are valued at about \$250 to \$500.

The record reflects that the service advisers (Clifford Bates and Christina Cabading) are the customer's first point of contact when a vehicle is brought to the Employer's facility for repair. The service advisers go to the vehicle, retrieve the mileage from it and input this information along with the vehicle's engine identification and license plate numbers into the Employer's computer system to generate a repair order. The service advisers identify the customer's concerns, input this information into the computer and give the customer an estimate of the cost of the repair. They then print the repair order and give it to the customer for review and authorization to perform the repair. The service advisers then assign the repair order to one of the service technicians to perform the repair. Each repair order contains a code number identifying the service adviser who prepared the repair order as well as the service technician assigned to effectuate the repair.

Vehicles are brought to the work stall of the service technician assigned to perform the repair by the detailer/porter/lot attendant, a service adviser or the service technician retrieves the vehicle himself. Upon receiving the assigned vehicle, the service technician reviews the repair order, determines what repair operations are necessary to effectuate the repair, identifies the parts necessary to effectuate the repair and requests a price quote for the necessary parts from the parts department via the computer. He then goes to the parts department, picks up the quote and then goes to the service adviser who determines the labor costs involved in the repair operation. The service adviser then calls the customer for authorization to do the repair. After receiving authorization for the repair, the service adviser makes the appropriate notations on the repair order, inputs this information into the computer system and advises the technician that the repair has been authorized.

The record reflects that the service advisers are paid a salary of \$2,500 a month plus a commission based on the labor costs of the repair orders they write up each month. Service advisers are not paid overtime if they work more than 40 hours a week. The record reflects that, on occasion, the service advisers will assist a customer on minor repairs such as installing wiper blades, or locking wheel nuts. However, they do not perform engine repair work or diagnose mechanical problems on vehicles. The record reflects that while shop foreman Mark Gospodnetich has

substituted for a service adviser on one occasion, no service adviser has substituted for a journeyman service technician.

After a repair has been completed, the booker/warranty clerk (Aaswindra Singh) examines the repair order to determine whether the work performed on the vehicle is covered under the manufacturer's warranty so that the manufacturer may be billed. In this regard, the record reflects that each repair order listed in the employer's computer has a separate line for each repair operation that is to be completed on each vehicle. As a service technician completes each repair operation, he makes an entry on the repair order on the appropriate line in the computer system so that the booker/warranty clerk may determine what code entries to make in billing the manufacturer for warranty work performed. The record reflects that the booker/warranty clerk works a shift beginning at 8 a.m. Monday through Friday. He is paid an hourly wage of \$18 per hour and is eligible to receive a bonus based on the productivity of the shop.

The detailer/porter/lot attendant (Armando Rosales), hereinafter called the detailer/lot attendant, is responsible for washing each vehicle so that it is ready to go when the customer comes to retrieve it. After washing a vehicle the detailer/lot attendant brings it to one of two staging areas designated for customer pick up. When the customer comes for his vehicle, the detailer/lot attendant, one of the service advisers or whoever else is available will bring the vehicle to the customer. The detailer/lot attendant works a shift starting at 8:00 a.m., Monday through Friday. He is paid an hourly wage of about \$11 an hour.

The parts counterperson, Adam Gonzales, works at the parts counter in the Employer's facility. He is supervised directly by Parts Manager Jim Brewster. Gonzales works a shift starting at 8:00 a.m., Monday through Friday, and is paid a salary plus a commission. The record reflects that the Employer tries to fill orders for parts from the stock at its facility. If a part is not in stock, it then tries to order the part "through stock order participation." On occasion, the Employer will call its sister store in San Jose to see if they have a particular part in stock and, if so, the parts counterperson will be sent to retrieve it. On occasion, service technician trainee Machhi has been sent to retrieve a part from the San Jose store.

The record reflects that all of the employees in the parts and service department wear Land Rover logo gear. The journeyman service technicians, the service technician trainee, the detailer/lot attendant and the parts counterperson wear beige long-sleeve Land Rover shirts. However, the service advisers and the booker/warranty clerk wear any type of Land Rover logo gear. All parts and service department employees are eligible for the same benefits (health plan, vacation, holidays and 401(k) plan) and are subject to the same work rules. They are also eligible to receive the Land Rover Customer Satisfaction Index (CSI) bonus. The record reflects that the service advisers, service technicians and booker/warranty

clerk all use the same lunch room. All employees at the Employer's facility are eligible to attend Land Rover's general orientation course to Land Rover vehicles.

Analysis: In making unit determinations, the Board has noted that there is nothing in the Act which requires that the unit for bargaining be the only appropriate unit, the ultimate unit or the most appropriate unit. Rather, the Act requires only that the unit be "appropriate". Overnite Transportation Co., 322 NLRB 723 (1996). A union is therefore not required to seek representation in the most comprehensive grouping of employees unless "an appropriate unit compatible with that requested does not exist." P. Ballantine & Sons, 141 NLRB 1103 (1963). Further, it is well settled that there is more than one way in which employees of a given employer may appropriately be grouped for purposes of collective bargaining. See General Instrument Corp. v NLRB, 319 F.2d 420, 422-423 (4<sup>th</sup> Cir. 1963), cert denied 375 U.S. 966 (1964).

In Dodge City of Wauwatosa, 282 NLRB 459 (1986), the Board found a group of mechanics who performed work similar to the technicians at issue in the instant case to constitute a craft unit appropriate for collective bargaining purposes. In so doing, the Board noted that the mechanics at issue were "a distinct and homogeneous group of highly trained and skilled craftsmen who are primarily engaged in the performance of tasks that are not only different from the work performed by the other service department employees, but that require the use of substantial specific craft skills, as well as specialized tools and equipment." 282 NLRB at 460. In addition, the Board also noted that the employer in that case required the employees at issue to have extensive training or experience before being hired.

Based on the foregoing and the record as a whole, I find that a unit limited to the Employer's journeyman service technicians and service technician trainee to be an appropriate unit. The record reflects that, like the mechanics in Dodge City of Wauwatosa, the Employer's journeyman service technicians are required to have extensive experience in automotive repair and provide their own tools. Further, a number of the Employer's journeyman service technicians possess ASE certifications in various automotive repair specialties. Although all of the employees in the service and parts department are engaged in work involved with the service and repair of Land Rover automobiles, the record reflects that only the journeyman service technicians and the service technician trainee perform the actual automotive repair work. Thus, while the service technician trainee is not as skilled as the journeyman service technicians, he is nevertheless engaged in mechanical work.

The Board has long held that a craft unit "consists of a distinct and homogeneous group of skilled journeymen craftsmen, working as such, together with their apprentices and/or helpers." American Potash & Chemical Corp., 107 NLRB 1418, (1423 (1954). Additionally, in Dodge City of Wauwatosa, the Board included lube and oil work employees in the craft unit. Accordingly, the service technician trainee

will be included in the unit. While the service advisers may, on occasion, assist a customer in minor repairs such as installing wiper blades, or locking wheel nuts, these tasks are not a regular function of their work. Moreover, this type of repair work is not of a skilled nature. See Fletcher Jones Chevrolet, 300 NLRB 875 (1990).

While the functions performed by all of the Employer's service department and parts departments employees are similar, to the extent they are all related to customer service and the repair of automobiles, I find that the skills that must be possessed by the journeyman service technicians and service technician trainee set them apart from the rest of the service and parts department employees and that they share a community of interest that is separate, distinct and apart from the employees the Employer seeks to include in the unit. In this regard, I find that the journeyman service technicians are highly trained workers who are primarily engaged in the performance of tasks that are substantially different from the work performed by the service advisers, booker/warranty clerk, detailer/lot attendant and the parts counterperson. Thus, the work of the journeyman service technicians (diagnosing and repairing vehicles) and the service technician trainee (basic automotive repair) is much different than that of the detailer/lot attendant, service advisers, parts counterperson and booker/warranty clerk. This work requires a much higher skill level and much more education and training. The service advisers assign the service technicians their work and do not perform any major automobile repair work. The parts counterperson obtains parts for the service technicians but also does not work with them in the overall repair of the vehicles. Similarly, although the journeyman service technicians and trainee service technician have contact with the detailer/lot attendant and booker/warranty clerk, their contact is not so substantial as to compel the inclusion of the latter in the unit. Moreover, they do not work with them in the overall repair of vehicles.

Although the record reflects that the journeyman service technicians and the service technician trainee receive the same benefits and are subject to the same work rules as the service advisers, detailer/lot attendant, booker/warranty clerk; work under the same supervision; and wear Land Rover logo gear; I find that the factors which set the journeyman service technicians and service technician trainee apart as a craft unit, i.e., their unique skills, training and specialized work, results in the journeyman service technicians and trainee service technician sharing a community of interest that is separate, distinct and apart from those employees. In this regard, I note that while only the journeyman service technicians diagnose and repair vehicles, the service technician trainee also performs repair work on vehicles. Further, the parts counterperson works under the direct supervision of Parts Manager Jim Brewster. Moreover, unlike the service technicians who are paid an hourly wage, the parts counterperson and the service advisers are paid a salary plus a commission.

The Employer argues in its brief that the unit sought herein is not a craft unit because, among others, the Petitioner seeks to include the technician trainee in the

petitioned-for unit. However, as noted above, the Board has long included employees performing work similar to that performed by the service technician in the instant case in craft units of mechanics. See Dodge City of Wauwatosa, *supra*; and Fletcher Jones Cheverolet, *supra*, *supra*.

The Employer also argues that the collective-bargaining history at its sister dealership as well as the historical pattern of collective bargaining in the auto industry in Santa Clara County compels a unit consisting of the entire service and parts department. In this regard, the record reflects that the collective-bargaining agreement between the Petitioner and the Employer covering the employees at the Employer's sister dealership in San Jose as well as the master collective-bargaining agreement negotiated by the Petitioner covering various auto dealerships in Santa Clara County include service advisers and technicians within the same bargaining unit. While the prevailing area-wide pattern of bargaining in an industry may be examined in determining the appropriateness of a bargaining unit at a particular work place, I do not find that the fact that the various auto dealerships in Santa Clara County may include service advisers and parts department employees in the same unit as service technicians to be determinative of the appropriateness of the petitioned-for unit in the instant case, inasmuch as the evidence supports a finding contrary to that practice. See Washington Palm, Inc., 314 NLRB 1122, 1128 (1994); J.O. Rhodes & Gilbert Corp., 106 NLRB 536, 538 fn. 7 (1953). Accordingly, I find that the petitioned-for unit consisting of the Employer's journeyman service technicians and service technician trainee to be an appropriate unit for collective-bargaining purposes.

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